IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NOs:18539, 18540, 18579, 18592 and 18605 of 2004

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WRIT PETITION NO : 18539 of 2004

Between:

Maddina Brahmaiah, s/o Narasappa Naidu,
R/o South Amuluru Village, Thotapally Gudur Mandal,
Nellore District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep., by its Commissioner, Endowment

Department, Andhra Pradesh, Hyderabad.
2 Sri Talapagiri Ranganadha Swamy Devasthanam rep., by its Executive

Officer, Ranganayakula Pet, Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue, a writ order or direction more particularly one in the nature of writ of mandamus: declare the action of the 2nd respondent in fixing the auction schedule dt.12-10-2004 to auction the schedule lands bearing in S.No.153, 156 consisting Ac.5.31 cents of South Amuluru Village, T.P.Gudur Mandal, Nellore District without following due process of law and without issuing notice contemplated under Rule 5 of A.P.Charitable & Hindu Religious Institution and Endowment Lease of Agrl.Lands

Rules 2003 and without Sec.82 of the Endowment Act 1987 amounts to erroneous, arbitrary and violative of Art.14, 19, 21 and 300(A) of the Constitution of India and consequently set aside the auction schedule to be fixed on 12-10-2004 at 10.00 A.M. in so far as the petitioner's lands bearing in S.No.153, 156 consisting Ac.5.31 cents of South Amuluru Village, T.P.Gudur Mandal, Nellore District.

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WRIT PETITION NO : 18540 of 2004

Between:

Maddina Ashok Kumar @ Ashok, S/o Mallaiah Chowdary,
R/o South Amuluru Village, Thotapally Gudur Mandal, Nellore District

..... PETITIONER

AND

1 The Government of Andhra Pradesh rep.by its Commissioner, Endowment

Department, Andhra Pradesh Hyderabad.
2 Sri Talapagiri Ranganadha Swamy Devasthanam Rep.by its Executive

Officer, Ranganayakula Pet, Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus: Declare the action of the 2nd respondent in fixing the auction schedule

Dt. 12/10/2004 to auction the schedule lands bearing in S.No.132 &133 consisting Act.6.00 cents of South Amuluru Village, T.P.Gudur Mandal, Nellore Dist. without following due process of law and without issuing notice contemplated under Rule 5 of AP. Charitable & Hindu Religious Institution and Endowment Lease of Agrl. Lands Rules 2003 and without sec . 82 of the Endowment Act. 1987 amounts to erroneous, arbitrary and violative of Art.14,19, 21 and 300 (A) of the Constitution of India and consequently set aside the auction schedule to be fixed on 12/10/2004 at 10.00 A.M in so far as the petitioner's lands bearing in S.No.132 & 133 consisting Ac.6.00 Cents of south Amuluru Village, T.P.Gudur Mandal, Nellore District.

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WRIT PETITION NO : 18579 of 2004

Between:

1.V. Seshaiah S/o Narasaiah, Agriculturist R/o South Amuluru Village,

Thotapally Gudur Mandal, Nellore District.
2.Kodi Chinna Pesaiah S/o Subbaiah, Agriculturist R/o South Amuluru Village,

Thotapally Gudur Mandal, Nellore District
3.Kodi Rama Subbaiah S/o Kondaiah, Agriculturist R/o South Amuluru Village,

Thotapally Gudur Mandal, Nellore District
4.Sk. Basha S/o Babesaheb, Agriculturist R/o South Amuluru Village,

Thotapally Gudur Mandal, Nellore District
5.Kodi Mohan S/o Kondaiah, Agriculturist R/o South Amuluru Village,

Thotapally Gudur Mandal, Nellore District
6.U. Arunamma W/o Late Ramanaiah, Agriculturist R/o South Amuluru

Village, Thotapally Gudur Mandal, Nellore District
7.Kodi Ramaiah S/o Peda narasaiah, Agriculturist R/o South Amuluru Village,

Thotapally Gudur Mandal, Nellore District
8.U. Hari S/o Peda Ramaiah, Agriculturist R/o South Amuluru Village,

Thotapally Gudur Mandal, Nellore District
9.Kodi Venkaiah S/o Yanadaiah, Agriculturist R/o South Amuluru Village,

Thotapally Gudur Mandal, Nellore District
10.Kodi Peesaiah S/o Ramaiah, Agriculturist R/o South Amuluru Village,

Thotapally Gudur Mandal, Nellore District
11.Kodi Seenaiah S/o Kondaiah, Agriculturist R/o South Amuluru Village,

Thotapally Gudur Mandal, Nellore District

..... PETITIONERS

AND

1.The Government of Andhra Pradesh, rep by Commissioner, Endowment

Department, Andhra Pradesh Hyderabad
2.Sri Talapagiri Ranganadha Swamy Devasthanam rep by Executive Officer,

Ranganayakula Pet, Nellore, Nellore district

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in fixing the auction schedule dt 12-10-2004 to auction of the schedule lands bearing in S. No. 573-578, 582 for an

extent Ac. 14.05 cents of South Amuluru Village, T.P. Gudur Mandal, Nellore District, without following due process of law and without issuing notice contemplated under Rules 5 of A.P Charitable & Hindu Religious Institution and Endowment lease of agrl. Lands Rules 2003 and without Sec. 82 jof the Endowment Act 1987, despite the petitioners representation is pending for renewal of lease, amounts to erroneous, arbitrary and violative of ARt. 14,19,21 and 300(A) of the Constitution of India and consequently set a side the auction schedule to be fixed on 12-10-2004 at 10.00 A.M. in so far as the petitioner's lands bearing in S.No. 573-578,582 for an extent Ac. 14.05 cents of South Amuluru Village, T.P. Gudur Mandal, Nelloore Dist.

WRIT PETITION NO : 18592 of 2004

Between:

1.Mabbu Prabhakar, S/o. Singaiah,
South Amuluru Village, Thotapally Gudur Mandal, Nallore District.
2.Yadulooru Pillanarayana, S/o. Musalaiah,
South Amuluru Village, Thotapally Gudur Mandal, Nallore District.
3.Kodi Venkaaiah, S/o. Yanadaiah,
South Amuluru Village, Thotapally Gudur Mandal, Nallore District.
4.Amanduru Venkateswarlu, S/o. Ramalingaiah,
South Amuluru Village, Thotapally Gudur Mandal, Nallore District.
5.Yanduru Venkata Krishnaiah, S/o. Pottaiah,
South Amuluru Village, Thotapally Gudur Mandal, Nallore District.
6.Peram Venkateswarlu, S/o. Ramaiah,
South Amuluru Village, Thotapally Gudur Mandal, Nallore District.
7.Undrala Chandriah, S/o. Venkaiah,
South Amuluru Village, Thotapally Gudur Mandal, Nallore District.
8.Undrala Arunamma, W/o. Late Ramanaiah,
South Amuluru Village, Thotapally Gudur Mandal, Nallore District.
9.Y. Sinaiah, S/o. Pedanarasaiah,
South Amuluru Village, Thotapally Gudur Mandal, Nallore District.
10.Y. Samala, W/o. Late Venkatramanaiah,
South Amuluru Village, Thotapally Gudur Mandal, Nallore District.

..... PETITIONERS

AND

1 The Government of A.P., rep. by its Commissioner, Endowment

Department, A.P., Hyderabad.
2 Sri Talapagiri Ranganadha Swamy Devasthanam, rep. by its Executive

Officer, Ranganayakula Pet, Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue, a writ order or direction more particularly one in the nature of writ of

Mandamus; Declare the action of the 2nd respondent in fixing the auction schedule Dt. 12.10.2004 to auction the schedule lands bearing in S.No.356 to 359, 361, 364 consisting Ac. 14.57 Cents of South Amuluru Village, T.P. Gudur Mandal, Nellore District. without following due process of law and without issuing notice contemplated under Rule 5 of A.P. Charitable & Hindu Religious Institution and Endowment Lease of Agrl. Lands Rules 2003 and without Sec. 82 of the Endowment Act 1987, despite the petitioners representation is pending for renewal of lease amounts to erroneous, arbitrary and violative of Art. 14,19,21 and 300(A) of the Constitution of India and consequently set aside the auction schedule to be fixed on 12.10.2004 at 10.00 A.M. in so far as the petitioner's lands bearing in S.No.356 to 359, 361, 364 consisting Ac. 4.57 cents of South Amuluru Village, T.P. Guduru Mandal, Nellore Dist.

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WRIT PETITION NO : 18605 of 2004

Between:

1.Katta Seenaiah, s/o Bakkaiah,
R/o South Amuluru Village, Thotapally, Gudur Mandal, Nellore District.
2.N.Venkaiah, s/o Venkata Swamy,
R/o South Amuluru Village, Thotapally, Gudur Mandal, Nellore District.
3.N.Seenaiah, s/o Venkata Swamy,
R/o South Amuluru Village, Thotapally, Gudur Mandal, Nellore District.
4.N.Kodanda Pani, s/o Kamaksaiah,
R/o South Amuluru Village, Thotapally, Gudur Mandal, Nellore District.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh rep., by its Commissioner, Endowment

Department, Andhra Pradesh, Hyderabad.
2 Sri Talapagiri Ranganadha Swamy Devasthanam rep., by its Executive

Officer, Ranganayakula Pet, Nellore, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue, a writ order or direction more particularly one in the nature of writ of mandamus: Declare the action of the 2nd respondent in fixing the auction schedule dt.12-10-2004 to auction the schedule lands bearing in S.No.626 for an extent 6.74 cents out of Ac.7.70 cents of South Amuluru Village, T.P.Gudur Mandal, Nellore

District without following due process of law and without issuing notice contemplated under Rule 5 of A.P.Charitable & Hindu Religious Institution and Endowment Lease of Agrl.Lands Rules 2003 and without Sec.82 of the Endowment Act 1987, despite the petitioners representation is pending for renewal of lease amounts to erroneous, arbitrary and violative of Art.14, 19, 21 and 300(A) of the Constitution of India and consequently set aside the auction schedule to be fixed on 12-10-2004 at 10.00 A.M. in so far as the petitioner's lands bearing in S.No.626 for an extent 6.74 cents out of Ac.7.70 cents of South Amuluru Village, T.P.Gudur Mandal, Nellore District.

Counsel for the Petitioners in all the writ petitions: MR.T.C.KRISHNAN

Counsel for the Respondent No.1 in all the writ petitions: GP FOR ENDOWMENTS

Counsel for the Respondent No.2 in all the writ petitions: SMT.N.INDRANI

The Court at the admission stage made the following:

COMMON ORDER:

Since common questions of fact and law arise for consideration, all these matters are heard together and disposed of by this common order.

The petitioners in these writ petitions are the lessees in respect of the lands belonging to second respondent-temple having been declared as the highest bidders in the public auction held in the year 2001. It is not in dispute that the lands in question were being used as fish tanks. The lease was for a period of three years. These writ petitions are filed aggrieved by the action of the second respondent in issuing the notice dated 30.09.2004 proposing to conduct public auction for

the leasehold rights in respect of the fish tanks in occupation of the petitioners.

The only contention raised by the petitioners is that since all of them are landless poor persons, the respondents are not justified in proposing to conduct fresh auction in respect of the said lands without determining the claim of the petitioners to extend the benefits of Section 82 of the A.P. Charitable and Hindu Religious Institutions & Endowments, Act, 1987 (for short, 'the Act') and particularly without terminating the existing lease in their favour as contemplated under Rule 5 of the A.P. Charitable and Hindu Religious Institutions & Endowments Lease of Agricultural Lands Rules, 2003 (for short, 'the Rules).

At the outset, it is to be noted that since admittedly the lands in question are non-agricultural lands, Section 82 of the Act as well as the Rules issued under G.O.Ms.No.379, dated 11.03.2003 are not applicable and therefore the claim of the petitioners that being the landless poor persons they are entitled to continue in possession, is untenable. Hence, the relief as prayed for cannot be granted.

However, having regard to the facts and circumstances of the case and keeping in view the plea of the petitioners that they have invested huge amounts for fish farming in the tanks in question and that the fish crop raised this year is yet to be harvested, I deem it appropriate to dispose of the writ petition granting leave and liberty to the petitioners to make an appropriate representation before the Commissioner of Endowments, A.P., Hyderabad seeking extension of lease within a period of four weeks from today. If such a representation is made, the Commissioner of Endowments shall consider the same and pass appropriate orders in accordance with law within a period of four weeks thereafter.

Till such time, the petitioners shall not be dispossessed from the lands in question subject to the condition that entire arrears, if any, are cleared and they continue to pay the rents payable regularly.

With the above directions, the writ petitions are disposed of. No costs.

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26.10.2004

Note: Issue CC in two days

(b/o)

VGB

To

1 The Commissioner, Government of Andhra Pradesh, Endowment

Department, Andhra Pradesh, Hyderabad.
2 Sri Talapagiri Ranganadha Swamy Devasthanam rep., by its Executive

Officer, Ranganayakula Pet, Nellore, Nellore District.

3 2CCs to the Government Pleader for Endowments, High Court

Buildings, Hyderabad (OUT)

4 2CD copies